

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CONTINENTAL CARS, INC., a
Washington corporation, dba AUBURN
VALLEY MAZDA,

Plaintiff,

v.

MAZDA MOTOR OF AMERICA, INC.,
a California corporation, dba MAZDA
NORTH AMERICAN OPERATIONS,

Defendant.

CASE NO. C11-5266BHS

ORDER DENYING
PLAINTIFF'S MOTION
TO REMAND

This matter comes before the Court on Plaintiff's ("Auburn Valley") motion for remand (Dkt. 5). The Court has reviewed the briefs filed in support of and in opposition to the motions and the remainder of the file and hereby denies Auburn Valley's motion for the reasons stated herein.

I. PROCEDURAL HISTORY

This matter arises out of a auto dealership contract dispute between Auburn Valley and Mazda. On April 6, 2011, Mazda timely removed this action from state court. Dkt. 1. On April 7, 2011, Auburn Valley moved for remand. Dkt. 5. On April 18, 2011, Mazda responded in opposition. Dkt. 9. On April 22, 2011, Auburn Valley replied.

II. FACTUAL BACKGROUND

The facts that give rise to this action are generally undisputed. Whether the amount in controversy exceeds \$75,000, however, is disputed.

1 On or about October 2005, Auburn Valley and Mazda executed a dealer agreement
 2 (the “Agreement”). Complaint (Dkt. 5, Ex. A) ¶ 4. This Agreement contained an
 3 “immediate termination” provision, which could be triggered in the event that a “Dealer
 4 Party” (defined by the contract) was convicted of or pleaded guilty to a felony charge.¹ *Id.*
 5 ¶ 6 (reproducing relevant termination provision).

6 The parties agree that on January 7, 2011, Wolfgang Roempke (“Roempke”),
 7 Auburn Valley’s principal operator at all relevant times, was sentenced for a felony
 8 violation of the Clean Air Act. In response to Roempke’s conviction, Mazda issued a
 9 notice of termination to Auburn Valley under RCW 46.96.070(2)(c) (requiring
 10 manufacturer to issue proper written notice before terminating a new motor vehicle dealer
 11 franchise) and Section 22(B)(i)(c) of the Agreement. *Id.* ¶ 7.

12 Auburn Valley asserts that Mazda violated the terms of their Agreement and the
 13 Washington Consumer Protection Act (“WCPA”) (RCW 19.86, *et seq.*), and caused and
 14 will continue to cause Auburn Valley “substantial monetary damages.” *Id.* ¶¶ 11-13. As a
 15 result, Auburn Valley seeks damages to be proven at trial, treble damages as provided by
 16 the WCPA, other equitable relief as may be available, and costs and reasonable attorneys
 17 fees under RCW 19.86 *et seq.* *Id.* at 6.

18 III. DISCUSSION

19 A. Amount in Controversy

20 The parties agree that diversity of citizenship exists between the parties in this
 21 case. Federal diversity jurisdiction therefore hinges on whether the requisite amount in
 22 controversy exceeds \$75,000 at the time the suit was filed. *See* 28 U.S.C. § 1332. The
 23
 24

25
 26 ¹This provision is further qualified, but the provision is not at issue at present. The issue
 27 at bar concerns only whether the amount in controversy exceeds \$75,000, which is not affected
 28 by whether or not the termination provision was properly invoked by Mazda.

1 amount in controversy is determined by the amount at stake in the underlying litigation.
2 *Theis Research, Inc. v. Brown & Bain*, 400 F.3d 659, 662 (9th Cir. 2005).

3 Because “it is *unclear* what amount of damages [Auburn Valley] has sought . . .
4 [Mazda] bears the burden of actually proving the facts to support jurisdiction, including
5 the jurisdictional amount.” *Id.* at 567 (collecting cases). “Under this burden, [Mazda]
6 must provide evidence establishing that it is ‘more likely than not’ that the amount in
7 controversy exceeds [\$75,000].” *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404
8 (9th Cir. 1996).

9 “The amount in controversy requirement may be satisfied . . . if either party can
10 gain or lose the jurisdictional amount.” *Sanchez*, 102 F.3d 398, 405 (9th Cir. 1996) (citing
11 *Ridder Bros., Inc. v. Blethen*, 142 F.2d 395, 399 (9th Cir. 1944) (holding that for
12 purposes of calculating amount in controversy, “[t]he value of the thing sought to be
13 accomplished by the action may relate to either or any party to the action”) (citation,
14 internal quotation marks omitted)); *see also Government Employees Ins. Co. v. Lally*, 327
15 F.2d 568, 569 (4th Cir. 1964) (citing *Ridder* in support of proposition that “the amount in
16 controversy is the pecuniary result to either party which that judgment would produce”).
17

18 Here, in addition to monetary damages to be proven at trial, Plaintiff seeks
19 “equitable relief in the form of specific performance” under the Agreement. Dkt. 5 at 6
20 (referring to Complaint); *see also* Complaint at 6 (requesting equitable relief). Plaintiff is,
21 therefore, either seeking to be compensated, at a minimum, for breach of contract or to
22 have the contract reinstated and compensated for any damages that inhere thereto.

23 One pecuniary result of enforcing Mazda’s performance under the Agreement is at
24 least Auburn Valley’s benefit of running the franchise. Mazda has supplied sufficient
25 evidence for purposes of determining whether the jurisdictional amount is satisfied that,
26 at the time of removal, Auburn Valley possessed vehicles ready for sale having a gross
27 profit value of approximately \$109,740. Declaration of Alan Schapel (Dkt. 11) ¶ 5. If
28

1 Auburn Valley prevails in its action it may be entitled to specific performance, which
2 would enable it to realize the revenue generated by such sales, or it would be able to
3 obtain damages in the amount of lost opportunity for these sales. Either way, the
4 jurisdictional amount would be satisfied based on potential auto sales revenue. Auburn
5 Valley has not adequately refuted Mazda on this point.

6 Even if Auburn Valley could establish that the foregoing potential pecuniary result
7 would result in something less than the jurisdictional amount, the amount could be
8 satisfied by aggregating the potential damages to be paid to Auburn Valley. Indeed,
9 Auburn Valley seeks damages under the WCPA, which if successful, could result in the
10 award of treble damages and statutory attorneys' fees. Aggregating these amounts with
11 any monetary damages as a result of Mazda's alleged breach of contract are easily
12 presumed by the Court to be over \$75,000.

13 Based on the foregoing, Mazda has adequately met its burden to withstand Auburn
14 Valley's motion for remand because Auburn Valley more likely than not stands to gain a
15 pecuniary result well in excess of the jurisdictional amount.

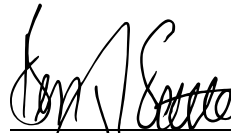
16
17 **B. Attorneys' Fees Not Warranted**

18 Because Auburn Valley does not prevail in its motion for remand, the Court denies
19 its motion for attorneys fees as moot.

20 **IV. ORDER**

21 Therefore, it is hereby **ORDERED** that Auburn Valley's motion for remand is
22 **DENIED** as discussed herein.

23 DATED this 12th day of May, 2011.

24
25 
26 BENJAMIN H. SETTLE
27 United States District Judge
28